

Group II: Claim 6 drawn to a second solution comprising anaerobic energy stimulator, anti-inflammatory agent, free radical scavenger, KH_2HPO_4 , MgSO_4 and raffinose, classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group III: Claim 7 drawn to a third solution comprising anaerobic energy stimulator, anti-inflammatory agent, free radical scavenger, and adenosine, allopurinol and pentastarch, classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group IV: Claim 8 drawn to a fourth solution comprising anaerobic energy stimulator, anti-inflammatory agent, free radical scavenger, NaCl and KOH classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group V: Claims 13-18 drawn to a fifth composition comprising an organ or tissue and anaerobic energy stimulator, anti-inflammatory agent, and free radical scavenger, classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group VI: Claims 20-24 drawn to a method of use of Group I, classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

Group VII: Claims 25-27 drawn to a method of making a solution comprising mixing potassium lactobionate, potassium phosphate, raffinose, adenosine, etc., classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others.

The Examiner considers that Group I does not require the components of Groups II, III, IV, or V and is therefore, a distinct composition. The Examiner also considers that Groups I and VI are distinct because (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. Specifically, the Examiner states that the product may be used as a cell culture medium, where the medium comprises insulin, dexamethasone and

glutathione. In view of the restriction requirement, Applicants provisionally elect, with traverse, to proceed with Claims 1-5, 9-12 and 19.

Applicants respectfully traverse the restriction requirement. MPEP §803 states that the two criteria for a proper requirement for restriction between patentably distinct inventions are that (1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the Examiner if restriction is not required. Applicants respectfully submit that the cold storage solutions of Claims 6-8 and 13-18 are species of the compound of independent claim 1.

As provided under MPEP §806.04(a) and 37 C.F.R. §1.141, a reasonable number of species of an invention may be specifically claimed in one application provided that the application also includes an allowable claim generic to the claimed species and all the claims to species in excess of one are written in dependent form or otherwise include all the limitations of the generic claim (Claim 1).

Applicants also respectfully submit that the Examiner has not shown that there would be a serious burden on the Examiner if a restriction was not required. Each of the groups are classified in class 435, subclasses 1.1, 1.2, 1.3, 2 and others and all comprise an anaerobic energy stimulator, anti-inflammatory agent and free radical scavenger. As such, the restriction requirement should be withdrawn.

In response to Examiner's suggestion that a method of using the allowable solution may be rejoined upon request of appropriate claims, Applicants request that Claims 25-27 be joined with Claims 1-5, 9-12 and 19.

For the above reasons, Applicants request reconsideration of the restriction requirement and that the restriction be withdrawn. In addition, Applicants respectively request timely allowance of all pending claims.

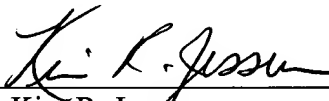
EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of times fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Date: MARCH 24, 2003

By: _____


Kim R. Jessum
Reg. No. 43,694

MORGAN, LEWIS & BOCKIUS, LLP
1701 Market Street
Philadelphia, PA 19103-2921
Telephone: (215) 963-4753
Facsimile: (877) 432-9652